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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

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DEC 15 1993

In the Matter of

Inquiry into Policies and Programs to  
Assure Universal Telephone Service in a  
Competitive Market Environment

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

RM No. 8388

Comments of Consumer Federation of America to  
Petition of MFS Communications Company, Inc. for  
Notice of Inquiry and En Banc Hearing

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December 15, 1993

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Consumer Federation of America ("CFA")<sup>1</sup> submits these comments in response to the Petition of MFS Communications Company, Inc. ("MFS") asking the Federal Communications Commission ("Commission") to issue a Notice of Inquiry and En Banc Hearing regarding providing universal telephone service in a competitive environment.

CFA is glad to see members of the telecommunications industry adopt CFA's long standing view that under close scrutiny the alleged "subsidy" claimed by the local monopoly telephone companies for residential and other telephone services will evaporate. While it is likely that special programs including subsidies will have to be maintained for low-income consumers, high cost areas and consumers with disabilities, claims of billions of dollars of

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<sup>1</sup> CFA is a coalition of 240 pro-consumer organizations with a combined membership of some 50 million. Since 1968, CFA has represented the consumer interest before federal and state policymaking and regulatory bodies and the courts.

subsidy for residential telephone service are unfounded.

There is no doubt that the issue of enhancing and preserving universal service in the information age and in a competitive environment presents extremely important policy questions. CFA is concerned, however, that it would be premature for the Commission to begin dealing with the issues raised by MFS before other important consumer issues are properly dealt with.

#### I. Development of National Telecommunications Policy for the Information Age

It is not altogether clear that the Commission is in a position to properly deal with all aspects of the issue of universal service in a competitive market. CFA believes the Commission may not have the full authority to resolve this issue in an appropriate and effective manner without guidance from policymakers in Congress, the Administration and the States.

While the Commission must surely play a significant role in shaping and implementing these policies, it must do so at the appropriate time. Taking steps to create a new mechanism to guarantee universal service in a competitive marketplace without a long term vision in place of the markets should look like does not guarantee access for American consumers at affordable prices based on just and reasonable rates.

## II. The Commission Must First Resolve Other Significant Consumer Issues

CFA strongly believes that local competition is possible and will bring myriad benefits, including lower telephone bills and more services to consumers. The Commission's highest priority must be to protect and enhance universal service. However, CFA also believes that the Commission simply cannot properly deal with these issues until other significant issues are dealt with first.

CFA believes it would be premature for the Commission to expend significant time and resources to create a universal service plan for the competitive marketplace and deal with the issue of subsidies at this time.<sup>2</sup> Before such a plan can be useful, the Commission must take all steps necessary to open all local telephone markets to competition. The significant barriers that remain to local competition would render any action taken by the Commission to create a new framework to assure universal service in a competitive marketplace virtually meaningless.

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<sup>2</sup> CFA maintains that no alleged subsidy has been properly documented vis a vis universal residential phone service. To date, the Commission has also failed to find the existence of such a subsidy. See, Expanded interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd. 7369, modified on recon., 8 FCC Rcd. 127 (1992), further modified on recon., FCC 93-378 (released Sept. 2, 1993), petitions for recon. pending, appeals pending, Bell Atlantic v. FCC, No. 92-1619 et al. (D.C. Cir. filed Nov. 25, 1992)(special access); Second Report and Order and Third Notice of Proposed Rulemaking, FCC 93-279 (released Sept. 2, 1993), petitions for recon. pending (switched access).

Until we reach a level of actual, effective competition, the FCC's resources could be better used on other issues in which billions of consumer dollars are at stake. These unresolved issues are already costing consumers significant amounts of money or putting them at considerable risk today. The Commission has a duty to take care of these existing consumer needs before it deals with less immediate concerns of the industry.

For instance, the Commission has set in motion video dialtone service without any cost allocation rules in place. Competition and billions of consumer dollars are at stake and in that proceeding alone. CFA and the National Cable Television Association filed a Joint Petition asking the Commission to begin rulemaking proceedings to create cost allocation rules for video dialtone service. To date, the Commission has failed to act on that Petition. Meanwhile, the monopoly telephone companies continue to pump billions of ratepayer dollars into the local network in preparation for offering this service.

Implementation of the Cable Consumer Protection and Competition Act of 1992 is ongoing. The Commission has not yet delivered the rate relief envisioned by Congress or, in fact, promised by the Commission itself. Significant work remains to be done in the rate regulation proceeding and others. Here too, billions of dollars are at stake today and consumers await Commission action.

These and other issues are immediate concerns for consumers and competitors alike. MFS recognizes that it will be "a number of years for competition to develop in the local exchange".<sup>3</sup> Before the Commission begins working on the important issues we will face in the future, it should first take action by dealing with the immediate problems consumers and competitors are facing today.

### III. CFA's Concerns About The MFS Approach

As indicated above, CFA generally agrees with the "subsidy" analysis done by MFS. However, the premise of MFS's Petition seems to envision a residential subsidy in the model of Lifeline Service for all consumers except the middle class. This is far too narrow a view.

When universal service was set forth as a policy goal in the Communications Act of 1934<sup>4</sup>, roughly 35 percent of American households had telephone service. That penetration rate has grown to approximately 93 percent today. This market penetration was reached through populist pricing, not large scale lifeline type programs. This sort of progressive policy is necessary to bring the information age to all Americans at affordable prices based on just and reasonable rates.

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<sup>3</sup> See, MFS Petition at 1 note 1.

<sup>4</sup> § 1, 47 USC § 151.

Claims that universal will be threatened if local markets are opened up to competition would appear to be unfounded. The monopoly telephone companies continue to claim they are being subjected to significant local competition. However, they also continue to be among the most highly profitable companies in the country. When we consider that they operate with considerably less risk than other companies because of their local franchise in exchange service, their argument collapses under its own weight.

MFS proposes limiting universal service to guaranteed access to POTS and Touch-Tone service. This is simply not enough for the information age. Without access to digital services, many American consumers will be left behind in the telecommunications revolution. Access to affordable end-to-end digital service based on just and reasonable rates is the minimum standard necessary for the information age.

A mechanism must also be created which is designed to allow for an evolving definition of universal service. The mechanism would determine what services must be universal based on evolution of economic necessity and public convenience and open decisions by policymakers. There will be a continuing role for government to make certain all American's are connected to new and emerging technologies as the minimum services necessary expands.

MFS suggests that high rural areas should be expected to pay

their own way for telephone service.<sup>5</sup> CFA believes policymakers cannot ignore that there may be a continuing need to maintain high cost funds or other similar programs. The benefits of having interconnection to the telephone network for all American's flow both ways. Universal service must be extended to all rural and urban areas to guarantee that the country receives all of the fruits of the information age.

CFA believes that just as costs should be allocated based on the amount of demand a service places on the network, so too should contributions toward universal service be similarly based. As we move to a completely digital standard, it will be impossible to tell which bits are telephone conversations, which are data services and which are video. The only difference will be in the number of bits used to convey the information. To calculate the contributions based on the demand put on the network, a system must be put in place which looks not only to the revenues of a particular company, but the amount of bandwidth used.

MFS indicates that it has relied on Professor Elie Noam's "NetTrans Account" proposal.<sup>6</sup> However, Professor Noam's proposal presupposes the existence of a subsidy. MFS indicates that it agrees with CFA and does not presuppose such a subsidy. This is

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<sup>5</sup> MFS Petition at 11.

<sup>6</sup> MFS Petition at 20.



but one serious concern we have with the Noam approach.<sup>7</sup>

MFS and Professor Noam also fail to include a mechanism to assure preservation of the declining real cost tradition of local telephone service. The new revenue streams from increased use of the telecommunications network must be captured and used to bring down the price of an evolving definition of basic telephone service. It was the monopoly ratepayers who financed the network and they should be a beneficiary of new and increased revenues.

#### IV. Conclusion

CFA commends MFS for raising important questions about preserving universal service in this country. The MFS analysis of the monopoly telephone companies subsidy argument adds a valuable industry voice to the claims made by consumers for many years. However, the Commission must proceed in a careful, logical manner to create a progressive pro-consumer, pro-competitive universal service policy.

Before undertaking the monumental task of creating a new mechanism for assuring universal service, the Commission should take steps to help bring competition to the local exchange, create cost allocation rules for video dialtone and fix the problems with

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<sup>7</sup> As these Comments are not directed at Professor Noam's proposal, we will not go into great detail about our concerns.

the cable rate regulations. These issues are among the most important pocketbook telecommunications issues for American consumer today. Therefore, the Commission should make action on these issues a priority.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Bradley Stillman', with a long horizontal flourish extending to the right.

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